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5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA

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8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 DAVID ALLAN GARRETSON,

12 Defendant.

Case No. 2:13-cr-029-APG-GWF

**ORDER ACCEPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATION ON MOTION TO
DISMISS**

(Dkt. #50, 79)

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14 On April 8, 2013, defendant David Garretson filed a Motion to Dismiss Count Six
15 of the Indictment [Dkt #50]. On June 12, 2013, Magistrate Judge Foley entered his
16 Findings and Recommendations [Dkt #79] recommending that Defendant Garretson's
17 Motion to Dismiss be denied. Garretson filed an Objection [Dkt #84] to the Findings and
18 Recommendations and the Government filed a Response [Dkt. #103]. Pursuant to Local
19 Rule IB 3-2(b), the court has conducted a *de novo* review of the motion to dismiss,
20 Findings and Recommendations, and related papers. The Court finds the Findings
21 correct, well-reasoned and thorough, and adopts them in every respect. In addition, the
22 Court notes that in *U.S. v. Sanchez*, 639 F.3d 1201, 1205 (9th Cir. 2011) -- the case
23 primarily relied upon by Garretson -- the Ninth Circuit specifically noted that 18 U.S.C.
24 §922(g)(8)(B) "does not include [18 U.S.C. §922(g)](8)(C)(ii)'s 'by its terms explicitly'
25 language. Context suggests that (8)(C)(i) and (8)(C)(ii) require something more than
26 what (8)(B) requires." This further supports Judge Foley's analysis and conclusions.
27 Accordingly,
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IT IS HEREBY ORDERED that the Magistrate Judge Foley's Findings and Recommendations [Dkt #79] are accepted and approved in their entirety.

Dated: October 28, 2013.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE